

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:14-cv-00197-GCM**

<div>RIGHTSIDE INVESTMENTS, LLC d/b/a/ RIGHTSIDE DESIGN and LYNN MCKERNAN,  Plaintiff,  v.  SEASON’S DESIGNS INTERNATIONAL, LTD. and GARRY M. DAVIS,  Defendants.</div>	<div>CONSENT ORDER</div>
---	--------------------------

Upon consent of the parties, Plaintiff Rightside Investments, LLC d/b/a Rightside Design “Rightside”) and Lynn McKernan (“McKernan”) (collectively, the “Plaintiffs”) and Defendants Season’s Designs International, Ltd. (“SDI”) and Garry M. Davis (“Davis”) (collectively, “Defendants”), IT IS HEREBY ORDERED, ADJUDGED and DECREED as follows:

1. This Court has jurisdiction over the federal subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) in that this action arises under the copyright laws of the United States, 17 U.S.C. §§ 101 *et seq.* This Court has supplemental jurisdiction over the remaining subject matter of this action pursuant to 28 U.S.C. § 1367(a).

2. On or about April 21, 2014, Plaintiffs filed a Complaint in this action seeking a preliminary and permanent injunction and damages from Defendants in connection with Defendants’ alleged infringement of designs created by McKernan which are part of a line of products called the “I.Sea.Life Collection”. The I.Sea.Life Collection includes the following designs: Jellyfish 3D, Three Little Fish, Blue Crab Embroidered and Beaded with Seagrass,

Starfish with Embroidered and Beaded Applique Design, Sea-ing Eye to Eye Embroidered Fish consisting of the Sea-ing Eye to Eye Fish facing right and the Sea-Ing Eye to Eye Fish facing left, Lobster is King, Turtle of the Sea, Great Blue Heron, King of the Chesapeake, and Pinch Me I'm Dreaming Crab (collectively the "Rightside Designs"). Copies of the Rightside Designs are attached hereto as **Exhibit A** and incorporated by reference.

3. McKernan is the owner of federal copyright registrations in certain of the Rightside Designs, namely: Jellyfish 3D soft sculpted pillow (VAu 1-012-053) and Three Little Fish Pillow (VAu 1-010-516) ("McKernan Registrations"). Rightside is the owner of federal copyright registrations in certain of the Rightside Designs, namely: Blue Crab Embroidered and Beaded Pillow with Seagrass (VA 1-804-192); Starfish Pillow with Embroidered and Beaded Applique Design (VA 1-804-111); Sea-Ing Eye to Eye Embroidered Fish Pillows (VA 1-804-114); Lobster is King Pillow (VA 1-750-774); Turtle of the Sea, applique pillow (VA 1-728-503); Great Blue Heron (VA 1-750-952); King of the Chesapeake (VA 1-750-799) Pinch Me Blue Crab Embroidered Pillow with Bubbles (VA 1-804-112) ("Rightside Registrations") (the McKernan Registrations and the Rightside Registrations are collectively referred to as the "Registrations").

4. Defendants acknowledge that as between Defendants and McKernan and Rightside, McKernan and Rightside have exclusive rights to the Rightside Designs and the Registrations, including all rights delineated in 17 U.S.C. §106.

5. Defendants shall destroy any products in their possession which contain the Rightside Designs and any products which contain designs derived from the Rightside Designs, and verify to Plaintiffs that they have done so on or before February 28, 2015.

6. Defendants and anyone acting on their behalf or at their behest or any company or other entity formed by them shall not:

- a. manufacture, import, sell, market, offer, advertise, or distribute (i) any of the Rightside Designs; (ii) any products which contain any of the Rightside Designs; or (iii) any products which contain any designs which are substantially similar to any of the Rightside Designs.
- b. copy, distribute, use or make any modification, alteration or derivative work of any of the Rightside Designs.

7. The Parties agree to bear their own costs and attorneys' fees in connection with this action.

8. The Court shall retain jurisdiction to enforce this Consent Order.

**IT IS SO ORDERED.**



Graham C. Mullen  
United States District Judge



**AGREED:**

By: /s/ Alice Carmichael Richey  
Alice Carmichael Richey  
N.C. State Bar No. 13677  
Sye T. Hickey  
N.C. State Bar No. 46106  
Parker Poe Adams and Bernstein, LLP  
Three Wells Fargo Center, Suite 3000  
401 S. Tryon St.  
Charlotte, North Carolina 28202  
(704) 335-9523 / (704) 335-4483 fax  
alicerichey@parkerpoe.com

Emily A. Danchuk  
963 Washington Avenue, No. 4  
Portland, Maine 04103

By: /s/ William C. Robinson  
William C. Robinson  
N.C. State Bar No. 17584  
Katherine T. Armstrong  
N.C. State Bar No. 36305  
Robinson Elliott & Smith  
P.O. Box 36098  
Charlotte, NC 28236  
(704) 343-0061  
srobinson@reslawfirm.net

David R. Boaz  
Robert Danny Mason, Jr.  
Womble Carlyle Sandridge and Rice, LLP  
One West Fourth Street

(207) 747-4135  
eadanchuk@gmail.com  
*Attorneys for Plaintiffs*

Winston-Salem, NC 27101  
(336) 721-3538/ (336) 733-8338 fax  
dboaz@wcsr.com  
*Attorneys for Defendants*